



May 27, 2010

David Morales, Commissioner  
Division of Health Care Finance & Policy  
2 Boylston Street, 5<sup>th</sup> Floor  
Boston, MA 02116

Dear Commissioner Morales,

I am writing this letter on behalf of the Greater Boston Chamber of Commerce to provide our comments regarding the Division of Health Care Finance & Policy's (HCFP) proposed regulations establishing an All Payer Claims Database (114 CMR 21.00 and 114 CMR 22.00). The Chamber is a broad-based association representing more than 1,500 businesses of all sizes from virtually every industry and profession in our region. We offer a wide array of services, including public policy advocacy for our business members.

The Chamber supports Chapter 305 of the Acts of 2008, which requires private and public health care payers to submit information on health insurance premiums, plan benefits, and changes in plan cost, etc. towards the goal of measuring premiums and utilization. However, HCFP's draft regulations go beyond that by requiring that health care payers provide the state with data files on all medical claims on an ongoing basis, including extensive subscriber-specific and provider-specific data.

This is a broad, far-reaching requirement that raises a number of issues.

Our concerns fall into three areas:

1. The compilation and manipulation of a raw claims database may not be the most effective way of measuring health care costs; alternative methods for reporting and obtaining this data may be less costly and more accurate. In particular, we urge consideration of the data-aggregating model used by the National Committee for Quality Assurance.
2. The Public Data Release Elements include considerable information that is proprietary to institutions within the health care sector. We believe that such information should remain confidential, as it is today.
3. The regulations raise serious privacy issues relative to patient records, information about medical conditions and treatment protocols, information about payments for medical services made by patients and businesses, and the heightened risks faced by patients with unfairly-stigmatized medical conditions.

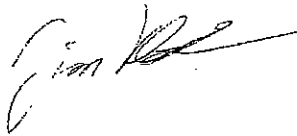
Our specific concerns with the regulations include:

- There are no guidelines regarding who is eligible to apply to use the data. Few would argue with letting appropriately-qualified academic researchers use the data. But requests to use the data could come from a number of other places, including health care payers, health care providers, and advocacy groups. While the Department has the ability to deny such requests, boundaries on who may submit them could be helpful.
- The requirement regarding the purpose of a data request—"the nature of which must be in the public interest"—is broad and vague and needs to be improved.
- Final decisions regarding data requests rest entirely with the Commissioner, without any checks and balances. And the Data Release Committee's guidance is advisory only. Decisions regarding data requests should be made by a committee whose members have strong, clearly-defined credentials and extensive experience.
- Restrictions on the use and sharing of Public Use Files are extremely limited.
- Conditions attached to the use of Restricted Use Files are extremely limited.
- The regulations' provisions to protect the privacy of all data elements are limited, particularly in comparison to best practices for data privacy in both the public and private sectors.

For the reasons outlined above, we ask the Division to revisit this approach to measuring health care premiums and utilization.

Please do not hesitate to contact me if you have any questions. Thank you in advance for your time and consideration of the Chamber's position on this important matter.

Sincerely,



Jim Klocke  
Executive Vice President  
Greater Boston Chamber of Commerce  
265 Franklin Street, 12<sup>th</sup> Floor  
Boston, MA 02210